WICKLOW SUMMER ASSIZES, 1890.

THE QUEEN

AGAINST

JAMES REDMOND, MICHAEL REDMOND, JOHN GRAY, THOMAS J. DOYLE, and ANDREW NOCTOR.

RE GOREY CONSPIRACY PROSECUTIONS.

CHARGE

OF

THE RIGHT HON. THE LORD CHIEF BARON,

MADE TO THE JURY BY WHOM THE ABOVE CASE WAS HEARD.

Presented to both Houses of Parliament by Command of Her Majesty.

DUBLIN:

PRINTED FOR HER MAJESTY'S STATIONERY OFFICE,

BY

ALEXANDER THOM & CO. (LIMITED),

And to be purchased, either directly or through any Bookseller, from

EYRE and SPOTTISWOODE, East Harding-street, Fetter-lane, E.C., or 32, Abingdon-street, Westminster, S.W.; or ADAM and CHARLES BLACK, 6, North Bridge, Edinburgh; or HODGES, FIGGIS, and Co., 104, Grafton-street, Dublin.

1890.

[C.—6139.] *Price 2d.*

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CHARGE OF THE RIGHT HON. THE LORD CHIEF BARON.

GENTLEMEN OF THE JURY,—The learned counsel who have addressed you so ably and so eloquently have raised every question of law that could avail the traversers in this important, and to some extent, novel prosecution; and the evidence has been so fully examined and scrutinised, that I feel it is necessary for me to do little more than to convey to you as clearly as I can the law as I understand it which hears upon the various subject matters that have been discussed, and then to call attention generally, and not in detail, to the various classes of evidence that affect the questions upon which the case must nltimately be decided by you. The charges against the five traversers at the bar are, as you are aware, contained in five counts of the indictment that has been found by tbe Grand Jury. I have directed the Clerk of the Crown to prepare an abstract of the charges contained in each count of that indictment, and I shall be obliged if, when you are considering the case, you will keep that document hefore you. At the same time, gentlemen, I shall, at the outset, explain those charges to you in more popular, and perhaps to yon clearer, language than that of the indictment. The first charge is that the traversers entered into a conspiracy not to sell, or to suffer to be sold, to the new tenants on the Coolgreany estate, certain commodities which they required; and that conspiracy is charged, and necessarily charged, to have involved an intention to injure those tenants. The second count charges a conspiracy to compel and induce Mr. Kidd, who has been examined as a witness, not to entertain or receive these new tenants as guests in his licensed premises, or to supply them with goods in the way of his trade. The third count is similar to the second, except that the conspiracy charged is not against William Kidd, but against James Pelan—tbat is, it alleges a conspiracy to compel and induce Pelan not to permit these new tenants, or any of them, to frequent his licensed premises or to sell to them. The fourth count appears to me to he a combination of the second and third, and charges the conspiracy to he to compel and induce both William Kidd and James Pelan not to entertain the new tenants, or to receive them in their licensed premises, or to deal with them. And the fifth and last count charges a conspiracy to compel the new tenants not to continue to use the farms they had taken upon the Coolgreany estate. Each of these counts, gentlemen, alleges that the object of the conspiracy charged in it was to injure these new tenants. I shall afterwards be obliged to tell you what, in point of law, is meant by the words "intent to injure"; but at the outset, in order to understand the charges, it is necessary that you should bear in mind that an intention to injnre these Coolgreany tenants is an essential part of each of the conspiracies alleged. Gentlemen, you have heard the case for the Crown, stated by Mr. Ryan and Mr. Carson, to be that the liberty of these new tenants of Coolgreany was unduly interfered with; and upon the other hand, you have heard the counsel for the defendants, and especially Mr. Redmond, in the course of his most legal, argumentative, and eloquent speech, claim, for the traversers, an amount of liberty equal to that claimed by the Crown for the new tenants at Coolgreany. We start, gentlemen, with this:.that each of these new tenants of Coolgreany, and each one of the traversers at the bar, is equal in the eyes of the law. Each has a certain portion of liberty guaranteed to him hy the laws of this country. Each of them is entitled to have that liberty protected by law. But the protection to which the liberty of one man is entitled never can involve the violation of the liberty secured to another. Therefore it is, that Mr. Redmond and Mr. Cooper, and indeed all the learned connsel for the defendants, were entitled to place, as they have, in the fore-front of their case, their contention, that if the Coolgreany tenants are at liberty by law to deal with any traders who are willing to deal with them, so every individual

trader is in the same way at liberty to deal, or not to deal with, these Coolgreany tenants according to his own free will. The real importance of this case—and unquestionably it is an important one—is that in it it becomes necessary to draw the dividing line between thesetwo rights, and to see how the law guarantees to these two classes of subjects —viz., traders, and those who desire to purchase from them—that which it considers true liberty, and how it prevents the exercise of the rights of one class from so infringing the rights of the other as to deprive that other of part of the liberty which is guaranteed to him hy law. From that point of view, gentlemen, this case is an important and a novel one ; because, as far as I can find, no case has arisen for very many years in which it was necessary to insist on doctrines so generally recognised and admitted as those which have been canvassed in the present case.

Gentlemen, my only wish is to convey to you clearly the law as I understand it to be. There is no difficulty in it when it is clearly explained ; but to be consistent it must be such as to ensure to such of the traversers as are traders the same degree of liberty and the same right as it secures to the new tenants upon the Coolgreany estate who, as members of the public, are anxious to deal with these traders. At the root of the entire case, as well that of the prosecution as of the defence put forward by the defendants, is the principle that English law considers that it is part of the liberty that it secures to each subject of the realm that he shall be at liberty to deal, if he thinks fit, with any person willing to trade with him. I wish you, gentlemen, to thoroughly understand and ponder upon that; you will find that it does not interfere with the rights of anyone. It gives a right to everyone. You are at liberty to go to any trader who wishes to deal with you ; you are at liberty to deal with him ; he is at liberty to deal with you. And that, you will observe, involves the correllative of the same proposition —that no one is bound (in the absence of contract), to deal or trade with anyone against his own will. I am not bound to assign any reason why I walk into a shop in Grafton-street instead of another in Sackville-street which vends the same goods. A trader in Grafton-street or in Sackville-street is not bound, if he does not wish to serve me, to assign any reason for his refusal. I am free to deal with him, provided only he is willing to deal with me. He is free to deal with me if I am willing to deal with him, but all dealing is voluntary, and based upon contract. To every act of trading there must be at least two willing parties—the one willing to buy and the other to sell ; and any attempt on the part of any person in this country to force upon any trader—I care not whom—an obligation to sell to a person to whom he does not wish to sell, can end in nothing but confusion. I except licensed premises, which are subject to a different rule, as their owners *may* be under certain obligations to the public ; but as regards persons who are not licensed, any attempt to so press the criminal law as to force them to deal with others against their will is against law, and must lead to confusion. I wish to be very distinct upon this subject, because I have heard, and I have read allegations that the law of conspiracy as administered in Ireland is different from that which exists in, or which is administered in, England. So far as that law is administered in the Superior Courts in this country I am able to say that these allegations are libels upon the administration of the law, and are made by persons unacquainted with the subject. I desire then to bring your minds, as I have brought my own, to the consideration of the vital questions in this case, by putting in the forefront the rights the traversers enjoy under British law, and I tell you that none of them can be convicted merely for the lawful exercise of those rights. Eloquent as Mr. Redmond is, he could not place before you more clearly or more strongly the rights to which he properly contends traders are entitled.

I now go a little farther. So far, I have dealt with the rights of traders as individuals, and with the rights of individuals to deal with traders. Now I come to the rights of persons in combination—and in reference to that I have to tell you that the same principle of law and liberty applies, save so far as its application would be antagonistic to itself, and that, therefore (save where its application would trench upon the liberty of another person), the same principle applies in cases of combination of persons, all of whom freely and voluntarily combine to refrain from dealing with any person or persons with whom all are desirous not to deal. Thus, you may take all that I have said in reference to individual traders as applicable to traders acting in combination, subject to two considerations :—first, the combination must be such as not to interfere with the rights or liberty secured to other persons; and secondly, the combiuation must be a free and voluntary one, and the persons whom it is agreed shall not be dealt with must be persons whom each and every one of the members of the combination is desirous not to deal with. These two qualifications, which apply when several persons work in com-

bination, give rise to the questions upon which in result this case will turn; and therefore it is that I must bring them a little more particularly under your consideration. Many in combination may refuse to deal with a particular trader; but that particular trader has a right to carry on his trade freely with anyone who is willing to deal with him. How can these two principles co-exist? How is it that every trader has a right to deal with every person willing to deal with him, and that a number of people can combine to persuade others not to deal with that particular trader? Gentlemen, the law has been settled by the Court of Appeal in England in such a way that it can be touched only by the House of Lords; and by that law the limit and dividing line is held to depend upon the object with which the combination is entered into. Rival traders can combine and oppose each other to the very extinction of their trade, provided the motive that actuates them is solely that of their own protection—to sustain or to promote their own trade. There, however, they must stop; and if their intention is from personal spite against their opponents—to inflict upon them more harm than is incident to their carrying on their own trade to the bitter end—in other words, if it is what the law considers to be malicious—the law holds the agreement not to be of a lawful character, but by reason of its direct object of injuring others, to be unlawful and criminal. It is for that reason that, when stating to you the indictment, I emphasized the allegation in each count of the intention to injure.

The second element which I mentioned to you is, that those who combine should do so freely and voluntarily, and that the persons who are not to be dealt with shall be those whom all parties to the agreement or combination freely and voluntarily desire shall not be dealt with. In this respect there is an essential difference between the determination by one not to do an act which he is free to do, or refrain from doing, at his own volition, and an agreement by several that none of them shall do acts of a similar character.

In the first case there cannot be influence by one will over another; but in the second, the very act of any one or of each of the parties entering into the agreement *may* affect not only *his* own will, but also the wills of some or all of the *other* parties to the agreement; thus, in every such case, the element of influence of one mind over another *may* exist.

Now, gentlemen, although one is at liberty to persuade another—to convince his understanding, so that his mind and will shall follow—the law recognises that which is called coercion of the mind as well as coercion of the body, and liberty would be a thing not worth the name if it did not include freedom from coercion of the mind as well as from that of the body. Upon that subject I shall read for you the words of a distinguished Judge in his charge to the jury in the case of *The Queen* v. *Druitt*—one of those trade union cases which settle the law upon this subject. He is speaking of the liberty which the common law secures to everyone:—

"But that liberty was not liberty of the body only. It was also a liberty of the mind and will; and the liberty of a man's mind and will, to say how he should bestow himself and his means, his talents and his industry, was as much a subject of the law's protection as was that of his body. Generally speaking, the way in which people had endeavoured to control the operation of the minds of men was by putting restraints on their bodies, and therefore we had not so many instances in which the liberty of the mind was vindicated as was that of the body. Still, if any set of men agreed among themselves to coerce that liberty of mind and thought by compulsion and restraint, they would be guilty of a criminal offence."

Applying the law as there laid down to the present case, Kidd has a right to bestow his means and employ himself in such a manner as he thinks fit—so has Pelan. Others are free to deal, or not to deal, with them or either of them, as they individually think fit. Those others may combine not to deal with them provided the object of their combination is to protect their own interests, and not to injure them or to coerce their minds. But if one of their objects be to coerce, or to unduly interfere with, their liberty of mind and thought, then, in point of law, the law has been broken, and the combination is illegal. It is not part of my province to say whether the doctrine of conspiracy is wise or not wise. It is part of the law, as (subject to some statutory alterations) it has existed for centuries, and my duty and yours is no more than to administer it. I must, however, say that the doctrine of conspiracy is much misunderstood by those who have only superficially considered it. Conspiracy, mere agreement, cannot *per se* make wrong that which is right. Any number of persons may combine to do a thing not in itself wrong; the mere agreement to do that thing, irrespective of the intent with which the agreement is entered into (as I shall afterwards explain it) cannot be wrong. What the law of conspiracy effects is this—(1) if the thing is in itself a wrong (that is an injury to a neighbour), but such a wrong as is no more than a breach of a *civil* right, which is cognizable only in a Civil Court,

and not criminally—if such act be the result of a combination of several, and if the motive actuating that combination is intent to injure, then, and not till then, the act which before was only a civil wrong becomes a criminal wrong.

That, gentlemen, is the law as it exists in reference to Trades Unions at the present time, when the greatest amount of liberty is allowed to workmen and to their employers to combine for their respective interests. The same, one law, is applicable to all agreements of this description. The element of criminality arises from the combination when two things exist:—when, first, the object or one of the objects of the combination is a civil wrong; and, secondly, when the combination to effect that wrong is for the purpose of injuring another, as distinct from that of honestly protecting the interests of those who combine. It is hardly necessary that I should tell you the reason of that law; but perhaps it may be as well that you should know it. It is founded on the consideration that what would be perfectly innocuous if done by one, might be impossible for any man to hold up against when done by several.

"It is obvious that a wrongful violation of another man's right committed by many assumes a far more formidable and offensive character than when committed by a single individual. The party assailed may be able, by recourse to the ordinary civil remedies, to defend himself against the attacks of one. It becomes a very different thing when he has to defend himself against many combined to do him an injury. . . . . The law has, therefore, * * * * established that a combination of persons to commit a wrongful act, with a view to injure another, shall be an offence, though the act if done by one would amount to no more than a civil wrong."

Now, gentlemen, I must recur to what I already stated to be the dividing line between legality and illegality of acts done in pursuance of a combination, and in doing so I prefer to use, as I did in reference to the other legal doctrine I have mentioned, the words of others rather than my own. What I am now about to read is taken from a book upon Trades Unions, written by Sir William Erle, formerly Lord Chief Justice of the Common Pleas in England:—

"At Common Law every person has individually, and the public also have collectively, a right to require that the course of trade should be kept free from unreasonable obstruction." (*a*) "Every person has a right under the law, as between him and his fellow-subjects, to full freedom in disposing of his own labour or his own capital according to his own will. It follows that every other person is subject to the correlative duty arising therefrom, and is prohibited from any obstruction to the fullest exercise of this right which can be made compatible with the exercise of similar rights by others. Every act causing an obstruction to another in the exercise of the right comprised within this description—done, not in the exercise of the actor's own right, but for the purpose of obstruction—would, if damage should be caused thereby to the party obstructed, be a violation of this prohibition, and the violation of this prohibition by a single person is a wrong, to be remedied either by action or indictment, as the case may be. It is equally a wrong whether it be done by one or by many—subject to this observation, that a combination of many to do a wrong, in a matter where the public has an interest, is a substantive offence of conspiracy." (*b*)

Gentlemen, the judgment of Lord Justice Bowen in *The Mogul Steam Ship Co.* v. *Macgregor* (*c*) is also valuable upon this question.

That was a case in which traders had agreed amongst themselves to allow a large rebate to their customers in the event of their dealing with them *exclusively*, and the basis of the judgment of the Lord Justice was, that it had been established that the rebate was one which the defendants need not have allowed to their customers. Determining the case upon this basis, the Lord Justice says—

"Of the general proposition, that certain kinds of conduct not criminal in any one individual, may become criminal if done by combination among several, there can be no doubt. The distinction is based on sound reason, for a combination may make oppressive or dangerous that which if it proceeded only from a single person would be otherwise; and the very fact of the combination may show that the object is simply to do harm, and not to exercise one's own just rights. In the application of this undoubted principle it is necessary to be very careful not to press the doctrine of illegal conspiracy beyond that which is necessary for the protection of individuals or of the public." (*d*)

Further on, in reference to a thing done in pursuance of a combination, which was calculated to do harm to others, the Lord Justice adds—

"If it was *bona fide* done in the use of a man's own property in the exercise of a man's own trade, such legal justification would, I think, exist not the less because what was done might seem to others to be selfish or unreasonable." (*e*)

That case, which was one of great importance, was decided upon the absence from the minds of the parties to the combination of either personal ill-will towards traders who were not to be dealt with, or a desire to inflict any injury on them except what was involved in protecting the business carried on by the parties to the combination.

(*a*) Erle on Trades Unions, p. 6. (*b*) *Ib.*, p. 12. (*c*) L. R. 23, Q. B. Div., 611.
(*d*) 23 Q. B., p. 618. (*e*) *Ib.*, p. 618.

Applying the principles I have mentioned, you will find that in examining the evidence in the present case you must keep distinct three different matters :— first—coercion of mind or will, by which I mean influence unduly exercised upon the will or mind of any person, whether a party to the combination or not; secondly— intent to injure, by which I mean a desire to inflict more harm upon the persons in question than reasonably would be the result of any fair trade competition, or of any fair protection to the parties to the combination; and, thirdly, and above all—that which was so ably referred to by the learned Counsel for the defendants—that self-protection to which every trader and every other person is entitled. If you find it was an object of the combination to effect coercion of the mind or will, either of the parties to the original agreement, or of parties who subsequently adhered to it, or of those over whom the combination attempted to exercise influence, then the combination is illegal. Secondly, although there was not, in your opinion, any intention to coerce the mind or will, such as I have mentioned, still, if one of the motives of the combination was personal ill-will, and a desire to inflict upon the new tenants of Coolgreany, or upon such traders as traded with them, more harm than was involved in the protection of their own interests by those who inflicted it, then again there will be illegality.

Upon the other hand, if you are of opinion that the motive of the combination was not actual personal ill-will or desire to inflict unnecessary hurt, and that one of the objects of the combination was not coercion of the mind or will, as I have explained it to you, and that the intent of the combination was honestly and *bonâ fide* (although perhaps mistakenly) to protect the interests of the combining parties, then such combination is not illegal, and in respect of any such combination there cannot be a verdict against the traversers. I think that I have now sufficiently explained to you the law bearing upon this subject, and I proceed to refer very shortly to the evidence, against each of the traversers, in relation to the matters I have mentioned.

Viewing the case generally, there does not appear to be much controversy as to the state of things at present existing in Gorey. How that state of things originally came about will be a matter I shall afterwards have to call your attention to, but the Counsel for all the defendants, except Mr. Noctor (with whom I shall afterwards be obliged to deal separately), not only admit, but insist on as part of their affirmative case, that at present in Gorey no individual trader is allowed to act according to his own will, and as he thinks fit. That is the defence of Michael Redmond, so well put forward by Mr. Matheson. He seeks to account for his client's refusal to deal with these Coolgreany people by the admitted existence of the state of things put forward by the Crown, namely, that the traders of Gorey are not at liberty to follow their own will. That there is, in some place or other, an irresponsible tribunal, working where or how in the town of Gorey we hardly know, but resulting in this—that the action of a large number of the traders of Gorey must be governed by the will of that authority, and not by their own free volition. The case put forward by Michael Redmond is, that the present state of things in Gorey is such that he is not at liberty to enjoy and exercise that freedom which is guaranteed to every man by the British Constitution. The same case is put forward by the Counsel for Gray. The same case is put forward by the Counsel for James Redmond. He also stated that his client was afraid to exercise his own will, as if he did so he might be boycotted ; and the Counsel for Thomas Joseph Doyle insists upon the same thing.

That renders it unnecessary for me to examine a great deal of the evidence before us, and I am anxious not to unduly tax your patience. We have several instances of refusal to deal, and of parties making apologies for dealing, with obnoxious persons, apologies which probably involved promises not to deal with them for the future. It is not necessary to recapitulate the evidence as to these instances in detail, as the defence is avowedly founded upon the existence of the state of facts, of which these instances are evidence. That in itself, however, is not sufficient to bring home guilt to any one of the traversers. In fact, as to two of the traversers it possibly may be, as you will see hereafter, a substantial ground for their acquittal.

We must, therefore, go a little further, and see, as best we can, how that state of affairs came to exist. Here again, gentlemen of the jury, there has been open confession and avowal by the candid Counsel for the traversers. It appears that Mr. Brooke had some unfortunate differences with his tenants on the Coolgreany estate. The Plan of Campaign was resorted to, and that culminated in a result (which I am at liberty to say was, in my opinion, much to be deplored) of the eviction of a number of families on the Brooke estate. Everyone has a right to form such opinion as he thinks fit upon that circumstance, but Mr. Brooke was dealing with his own property, and was acting in accordance with the laws of the land. He violated no right; and no matter what

you or I or anybody may think of that action, we must set ont with this, that it was permitted by law.

These evictions having been carried out by Mr. Brooke, a body calling itself a branch of the National League of Gorey, took the matter up. A letter has been given in evidence, dated the 26th of January, 1887, purporting to be signed by Thomas J. Doyle (one of the traversers), as honorary secretary of the branch.

If you consider that the signature to that letter has been sufficiently proved, you must read it and see what you are able to infer from it in connection with the other evidence. I must say that the evidence that this letter is in the handwriting of Doyle is but light It is no more than that of a policeman, who once saw him (T. J. Doyle) write his name upon a recognizance, and now swears that, in his opinion, the handwriting of the letter is Doyle's. On the other hand, no witness (who knew Doyle's handwriting) has been produced to prove that, in his opinion, the handwriting is not Doyle's.

You are at liberty yourselves to inspect the original letter in question, and also the recognizance upon which Doyle's handwriting appears, and to compare the two, and upon such comparison, and the other evidence, you will have to form your own opinion as to whether the handwriting in question is that of the traverser, Thomas J. Doyle. If, in your opinion, that has not been satisfactorily proved, tbe letter must be put out of consideration as an act of Doyle; but, even in that event, you are at liberty to take its contents into consideration in determining the state of things which existed in Gorey, and the cause of them, but not as an act incriminating Doyle.

There are two separate things incident to the alleged combination which you must consider—first, the actual existence of a combination and its nature—upon that this document is evidence, although you are not satisfied that it is in the handwriting of Doyle; and, secondly, whether Doyle was a party to that combination—upon that second question the letter is not evidence, unless you are of opinion that it has been satisfactorily proved to be signed by Doyle.

His Lordship then read the letter referred to, as follows:—

"Gorey Branch National League,
"26th January, 1887.

"SIR—I am directed hy the Committee of the ahove to inform you that the action of Mr. Brooke towards his Coolgreany Tenants is not approved of hy the people of these Districts, and that the action of persons who assist Mr. Brooke or 'his Agents, Bailiffs, &c., is anything but popular, and that your name has been freely mentioned in connection with the latter. Should you consider it advisable to contradict the reports in reference to you or give an explanation of your conduct, I shall be happy to bring it before the Committee at once, or should you wish to attend the meeting of our Committee on next Sunday evening, 30th inst., at 4 P.M., you will be accorded a respectful hearing.

"By order of the Committee.
"THOS. J. DOYLE, Hon. Sec.

"To Mr. Wm. Stuart,
"Main-street, Gorey."

Gentlemen, from that evidence, together with the other uncontroverted facts, you may, if you think fit, conclude that an unauthorized tribunal had set itself up in the town of Gorey, which thought fit to dictate to persons over whom it had no control, and with whom it had no concern, how they should act; and to call upon them to give an account to their officers of their actions, and if necessary to alter them. That some association of that nature existed in Gorey down to the period of the latest acts that are proved is the common case of all parties; and that being so, you must at once ask yourselves this—how can the decrees and wishes of such a body be enforced? One may preach as long as he likes, but unless there is some sanction attached to his preaching it will have very little effect upon those who are unwilling to assent to his doctrines. Behind every association of this sort, if it intends to have effective operation, there must be a sanction—there must be a punishment capable of being awarded and enforced if its dictates are not complied with.

That what is called boycotting has been going on in the town of Gorey for some time is admitted, and that Michael Redmond was afraid he would be boycotted unless he yielded to this particular influence, is his case; that Pelan was boycotted because he did not yield to this influence; and that Kidd was boycotted for the same reason, is common ground in the case. You, gentlemen, are asked by the Crown to draw an inference from these facts, and this letter, taken together, and to say that the act of boycotting Pelan and Kidd and the Coolgreany tenants is the result of a combination or organization of persons (who they are we will afterwards come to consider), who are able, by the means that have been indicated, to influence and act upon the minds of tbe people of Gorey. That will be your first consideration. Knowing the facts that have

been proved in reference to Pelan, Kidd, and the Coolgreany tenants, you will ask yourselves—what is the cause of all this? Possibly, you will come to the conclusion that there is some body or combination who think proper to form an opinion upon the acts of the parties, and according to the opinions they form on such acts, to determine whether the parties shall be boycotted or not. If you are of opinion that there is no such combination, that everything proved is no more than a succession of fortuitous circumstances, not originating in any common cause, there must be a verdict for the defendants. On the other hand, if you believe that there was an organization of this description, you must consider what was its methods of working. Now, there was fear of Michael Redmond being boycotted if he sold to the new Coolgreany tenants, and that James Redmond would be boycotted if he sold to them. There was the actual threat that Kidd and Pelan would be boycotted unless they gave up dealing with them. Thus it will appear to you at once that the reasons why these four persons were obnoxious was because they dealt with the Coolgreany tenants. If this were the reason, you would expect that the same course of conduct would be pursued towards the Coolgreany tenants themselves. And the mass of witnesses examined here all agree that it was so pursued, and that, save in exceptional instances, those Coolgreany tenants were obliged to buy from traders not subject to the influence of the League, such as those who had the custom of the landlords of that part of the county, and whose trade could not therefore be destroyed by a decree of the boycotting authority. Now, gentlemen, you will have to ask yourselves, is that so? Was there or was there not a combination of persons to prevent as many people as could be influenced by them (including those who but for such influence would have willingly done so) from dealing with the Coolgreany new tenants or with any trader who dealt with the Coolgreany new tenants? Was the object and design to boycott the Coolgreany tenants, and was that result to be achieved by also boycotting any traders who dared to deal with them? Was it a system of enforcing boycotting by boycotting; the ultimate punishment being that the entire of those over whom the National League had influence, which I assume to be a large number of the people of the District, would take away their trade and custom from any person who dared to deal with the Coolgreany tenants? Did or did not a combination for that purpose exist? If you are of opinion it did not, acquit the traversers. If you are of opinion that it did exist, let us come on and see who are responsible for it. I have already called attention to the letter attributed to Doyle, and let me now refer to the acts of a later date which affect him. As to him a very important piece of evidence has been given. We are all bound to make allowance for strong language. It is not everybody, not even an accustomed speaker, that is always able to control what he says when speaking under excitement. But the law holds a person responsible for his own acts; and if a number of people are together at a meeting, assembled for a common object, to which they are all parties, and if words are spoken by one of the persons there in pursuance of that common object, the law leaves it to a jury to say whether or not the words are to be attributed to all or any of the others assembled for the common object. I am not able to withdraw the effect of these words as regards Doyle and James Redmond. The law has left the determination of that with you. It was proved by George Ormeston, a sergeant of the Royal Irish Constabulary, that in February he attended a meeting at Cranford at which James Redmond and Thomas J. Doyle were present, and that the Rev. Patrick Doyle then and there made a speech in which he said that he would sooner be twenty miles away from the place if the Campaigners lost all hope of getting back, but he knew that, as Wexfordmen, they would wipe the planters out. That is—that he knew that they, as Wexfordmen (they, the persons whom he addressed in the presence of James Redmond and Thomas J. Doyle), were appealed to that they would, under certain circumstances, wipe the planters out. Now, gentlemen, if you gather the nature and extent and object of this combination by these unfortunate words—if you deem Mr. James Redmond and Mr. Doyle, neither of whom is proved to have made any protest against this appeal, and who at least lent the sanction of their presence to those words addressed to that large body of the men of Wexford—we have it at once that the object of this association was not legally to protect the interests of the combining parties, for admittedly neither James Redmond or Doyle had any interest in the matter, and the object of protecting the so-called interests of the tenants of Coolgreany would not render the combination legal, because they had not such interest in the matter as the law recognises. You will further consider whether the evidence as a whole does or does not indicate an intention to inflict upon these new tenants all such harm as the men there assembled could inflict upon them, so that

ultimately they should be obliged, in the language of the fifth count, not to continue to use or hold their farms. It has been often said as to accomplices in criminal cases that their evidence may show how a number of independent acts, otherwise satisfactorily proved, fit in together, and by making together one dependent whole, demonstrate the object in view. And if no effect is given to the statement of the Rev. Mr. Doyle, save to indicate the motive for the acts actually done, it will be for you to say whether these acts are to be read in the light of this statement of the reverend gentleman; and if so, whether they indicate conspiracy to inflict upon these planters such harm as would force them to leave their farms. That is a piece of evidence against Doyle and James Redmond, the effect of which cannot be over-estimated.

The next most material fact in the case against Doyle and Redmond is proved by Richard Spencer. It appears that Spencer was unfortunate enough to take a small piece of land which was not part of the Coolgreany estate. If this combination was confined simply to the Coolgreany estate, and the dealings that arose out of it, poor Spencer ought to have been permitted to live unharmed. But it appears that his taking of this piece of land was not according to the views of the National League, and accordingly in May, 1890, in consequence of something published of him in a newspaper, he went to a meeting of the League, which was held in the Market House at Gorey. There he found, amongst others, James Redmond and Thomas J. Doyle. You will ask yourselves what interest had James Redmond or Thomas J. Doyle in this piece of land of which Spencer had become the tenant. Still it appears that they were sitting there as an authority to hear what explanation Spencer had to give for taking it. Spencer swore that "Doyle asked me what was my business. I told him that I saw my name in the paper about the field, and that I had come to the meeting to tell them that I had taken the field from year to year, and that I would give it up at the end of the year sooner than be boycotted." One would think that if Redmond or Doyle were entirely free from the imputation brought against them in this prosecution, they would have said: "What do you mean—what have we to say to boycotting? Go about your business; we have nothing to say to you or your land." But no such thing took place. Spencer's statement was received in solemn silence. He was asked did they say anything to him, and he replied: "They told me to sit down, and were civil, but said nothing else; but Byrne and Peter Hughes said to the others that I had made a very fair offer."

Gentlemen, if you come to the conclusion that this boycotting is to be traced to this Association called the Land League or National League, and that this particular meeting was a meeting of that League, and that Redmond and Doyle were acting in authority as members of that League, it appears to me that in that case you would have almost conclusive evidence that these men were two of the persons who were in the forefront of the boycotting in Gorey. That is all the evidence I intend to refer to as to James Redmond and Doyle. The rest of the evidence bearing upon their case was so fully referred to by the counsel on both sides yesterday that I think it unnecessary to read it unless you desire that I should do so. You must, however, take it all into consideration, and upon it determine whether any of the charges against these two traversers have been proved to your satisfaction—if you have any reasonable doubt upon your minds you are bound to acquit them. I desire that you shall not take me as offering any suggestion as to the truth of the evidence, which is a matter entirely for you. I am merely pointing out the effect of that evidence if believed; I should add that it does not appear to me that, in reference to Mr. Doyle or James Redmond, any question of trade interest or of acting in their own interest is likely to arise; because if the intention of this combination was to carry out its object by unduly influencing freedom of will, no amount of desire of self-protection would render it legal.

Next, I have a word to say as to Andrew Nocter. If he is guilty at all, he is guilty as the tool of other men. We cannot help that. If Nocter allowed himself to be used in the carrying out of an illegal conspiracy, the law cannot help it, and I cannot help it; although I tell you honestly that, were I prosecuting, those whom I should try to make amenable to the law would be those whom I considered to be at the head and origin of the mischief. It is alleged that to carry out a conspiracy to prevent traders dealing with the Coolgreany tenants by boycotting them, if they did so, it was necessary that those traders should be informed from time to time whether particular persons who sought to deal with them were tenants or servants of tenants. You will recollect that in some instances goods were given at first, and afterwards taken back, when it was ascertained that the lady was what was called "a Primrose Dame." Now, it is said that Nocter was employed (whether for payment or not is immaterial), to point out at fairs and markets to people in the town all those who were Coolgreany new tenants, or messengers, or servants of such tenants, and probably also

to inform the head boycotting authority in Gorey whether any of the traders, contrary to their promises, sold to these people. As to Nocter, you will have to consider—if you believe a conspiracy existed—whether, by reason of his own acts, you are satisfied that he was a party to it. In conspiracy cases I have always struggled against anyone being convicted upon anything except his own acts. Although you can prove the conspiracy by independent acts, still the jury, when looking to the connection of an individual with that conspiracy, should look to his own acts, and his own acts alone. Of course that is subject to the legal proposition, that once you prove a man is a member of a particular conspiracy he is responsible for all that has been done in pursuance of the common object, whether he actually did it himself or not, but I always advise a jury to confine themselves to his own acts for the purpose of connecting him with the conspiracy. Mr. Redmond quoted an eloquent passage from the speech made by the late Lord Chief Justice Whiteside when at the Bar, in defence of O'Connell, to the effect that in cases of conspiracy a jury should consider whether the acts proved were "*possible*" upon any other supposition than that the conspiracy existed. But if he had then been Chief Justice, as he afterwards was, instead of being counsel for Mr. O'Connell, he would, I am satisfied, for "possible" have used the words "reasonably probable." We must act upon reasonable results, and must draw reasonable inferences from men's actions. The case against Nocter is short. He appears to have had an intense love for the one street, the main street, which constitutes the town of Gorey. Very often when any one of the Coolgreany tenants—the so-called planters—is in that town at a short distance from him, Nocter is to be found as if he were his shadow. When the planter moves from one shop to another, so moves the shadow; and wherever he (Nocter) places himself, it is in such a place as gives him an opportunity of observing where the planter is and what the planter does. You have had his movements on more occasions than one accurately traced by the members of the Royal Irish Constabulary who were examined before you. Those occasions were so numerous, and the conduct of Nocter upon each occasion was characterised by such similarity, that you will have to ask yourselves can you reasonably account for his acts and conduct otherwise than by inferring that he was watching the Coolgreany planters. If you think this inference is to be drawn, you will then ask yourselves had Nocter any reason for so acting, and if so, could this watching, which was peculiar, be reasonably connected with anything exeept the one peculiarity which these Coolgreany new tenants appear to have enjoyed in common, that they had been boycotted by the National League? That is the short case presented by the Crown against Nocter. If you believe that the only reasonable conclusion which can be drawn from Nocter's conduct is, that he watched these tenants in consequence of directions by the boycotting authority, to report what he observed to that authority, in order to enable them to carry out their views, then Mr. Nocter, though not in the forefront of the organization, ought to be found guilty. If you have, on the other hand, a reasonable doubt whether all of the inferences I have mentioned may legitimately be drawn, and unless you are prepared to draw them, you will acquit him.

I next come to the cases of the remaining two traversers. They stand in a different position from the others, and I must commend the cases of both of them to your careful consideration. Nothing would be more lamentable than that, by reason of a number of persons being included in the one indictment, some of whom either were in fact not guilty or were not proved guilty, anything in the nature of righteous indignation against others should cause a verdict of guilty against those who were not clearly identified with the criminal acts. The circumstance which distinguishes the cases of Michael Redmond and John Gray from those of James Redmond and T. J. Doyle is, that the evidence which I have already referred to as being that which was strongest against James Redmond and Doyle, was the evidence identifying them with the head boycotting authority. That evidence does not incriminate Michael Redmond or Gray, and there is no similar evidence against either of them. There is no evidence that Michael Redmond was in the room in which the League met; no evidence that he was even a member of this League; whilst as to Gray there is affirmative evidence that he never was a member. So far, therefore, as the evidence goes, and I know nothing outside that evidence, Redmond and Gray may have been in the position of men who themselves were in danger of being boycotted, and they may have refused to deal with these planters or tenants for fear that if they did so they themselves would be boycotted. That motive would not be an illegal one, and if it were honestly and really their motive, if they did not act through ill-will or a desire to injure those with whom they would not deal, and if they were not parties to an arrangement

to unduly influence others, in other words—if they did no more than yield to the dictates of the League to the extent of declining to deal without themselves becoming propagandists of, or endeavouring to, enforce its doctrines, then in law as well as in all justice they should be acquitted.

I take the case of Gray first:—He is proved to have been, upon certain occasions asked for goode and not to have supplied them. I pass from that with the statement I have already made—that any person is at liberty to refuse to supply his goods, unless he himself thinks fit to do so—and, although he comes from that law-abiding North of Ireland, yet, if he thought he could increase his 1*s.* into 1*s.* 1*d.* by giving way to an illegal conspiracy (which some people from that part of Ireland would sooner die than yield to), he was at liberty to do so if he thought proper. It is for you to say whether or not he did more than that. Johnson, Hegarty, and the young lady who was examined, applied to him (Gray) for goods, and he refused to supply them. But, were there nothing else in the case than that, I should not have sent it to you as regards Gray, but should have directed him to be acquitted. The reason I leave it to you is, that it was proved that on two occasions a contract for sale was actually made, and broken. The goods were bought, paid for, but not delivered. Hegarty did not get his boots, John Johnson did not get his collar; both, however, got back their money. For these breaches of contract, Gray might have been sued in a Civil Court, and damages, probably to a small amount, might have been recovered. But it is not charged in the indictment that one of the objects of the conspiracy was to break contracts made with obnoxious persons.

Mr. Cooper showed you the improbability of there having been any such object. He pointed out that the ultimate end of the conspiracy charged would be more likely to be achieved by agreeing not to enter into contracts, than first to enter into them, and then to break them. Where Gray is said to have done nothing more than on three occasions to refuse to supply goode, where he is proved by a witness for the Crown to have given, as the reason of his action, that he believed he would be boycotted if he did so, and where so large an amount of boycotting was admittedly in existence in Gorey before Gray came there, I ask you to consider seriously whether you can, from Mr. Gray's acts, arrive without doubt at the conclusion that he became a party to this boycotting combination? The question is not whether he was under the influence of the League (that is admitted), but whether he was one of the parties who combined to cause others not to deal with the obnoxious persons. You are asked to come to the conclusion that he was, solely from his action in these three contracts of sale. It is not for me to express an opinion, but I may say that I entertain a strong one on the subject.

I come now, gentlemen, to the last case—that of Michael Redmond. There is no concealing that it is a more difficult one for his counsel to defend than is the case of Gray, because you find that Michael Redmond is brought into contact with the particular traders, Kidd and Pelan, who were in danger of being boycotted. At the same time, there is this in favour of Michael Redmond (and it must always be kept in view), that he was a person in such a position that, according to the case for the Crown (and as against the Crown, you may assume their own case to be true), his trade might have been destroyed unless he gave way to the opinion of the League. Are you of opinion that he did anything more than that? It is said by Mr. Matheson that Michael Redmond was anxious to let things go on as smoothly as they could, and that he would have liked to sell goods both to the general public in Gorey and to the Coolgreany tenants, but that he probably would have become bankrupt had the trade of the populace been taken from him. He does not appear to have been in the position of Flusk, who had as customers the neighbouring gentry, whom the conspiracy was unable to reach. The first matter you will have to consider as to Michael Redmond is that which took place as to Kidd. There appears to have been an interview between a man of the name of Dunne, Kidd, and Michael Redmond. Dunne is not one of the traversers before you, and (as the Crown makes no distinction of persons) I suppose its advisers think that the evidence was not sufficient to bring home guilt to him, and that, therefore, his action in relation to this matter may be viewed as that of a person trying to smooth down matters rather than to encourage boycotting. Dunne, in Michael Redmond's presence, told Kidd that he (Kidd) was not bound to supply any persons with food or anything outside the Excise requirements. Speaking ordinarily, assuming that there was no attempt to exercise undue influence, and no ill intent involved, Dunne was quite right in this. Kidd says that in that conversation Michael Redmond said that if he (Kidd) made a slight apology to the chairman for supplying obnoxious persons it would be all right. Before that Dunne had made a similar statement to Kidd in the presence of Michael Redmond. Mrs. Kidd's evidence as to the apology is substantially similar.

Now, gentlemen, you will observe from the nature of what took place that the position of Kidd at the time was one of antagonism to the League, and that the object of Dunne and Michael Redmond was to induce Kidd to yield to the League. If Michael Redmond made that attempt for the purpose of furthering the objects of the League, he ought to be found guilty. But if his real object was, while securing the popular custom by not dealing with the Coolgreany tenants, to be able to secure also the valuable custom of Kidd by preventing Kidd being boycotted, you may view his action as having been for his own protection, and he ought to be acquitted. The transaction with Pelan is substantially similar. It was proved by Pelan that in April last Michael Redmond told him that he heard he could not supply him on account of his supplying obnoxious characters, and that he asked him (Pelan) to go to Father O'Neill and that his trade would come back. He said he had since ceased to deal with him. Pelan further says: "He told me that he was afraid he would be boycotted if he dealt with me," and Pelan swears that it was his own belief that if he did so he would be boycotted. That is the whole of the case so far as is material. You are however bound to consider, and give such effect as you think fit, to every portion of the evidence, as well to that to which I have not called attention as that to which I have referred. In conclusion, then, you will consider whether it is proved to your satisfaction that there were any of the five conspiracies alleged in the indictment, and if so, whether the traversers or any of them were parties to them or any of them. First, was there a conspiracy not to sell or suffer to be sold to the planters with intent to injure them. There is the clearest evidence that there was a conspiracy to that effect, whoever you may be of opinion were parties to it. Then, if so, was the object of that conspiracy to injure these planters or for the protection of the interests of the parties to the combination, which the law entitles them to protect. Next, were there the conspiracies (2, 3, and 4) to unduly influence Kidd and Pelan not to permit the planters to frequent their licensed premises; and lastly, upon the general count (the 5th), you will consider whether the object of the entire combination was or was not to compel these new tenants or planters not to continue to use their farms. Then you will consider whether any, and which of the traversers, were parties to the conspiracies, or such of them as you shall find to have existed. Lastly, you will bear in mind, as to all the traversers, that if upon the evidence you have any reasonable doubt as to their guilt, they are entitled to the benefit of it and ought to be acquitted.

After the jury had retired,

Sergeant *Ormiston* was recalled, and asked as to the Rev. Mr. Doyle's speech.

At the instance of Mr. *Redmond*, the jury were called back, and the

Lord Chief Baron said—Gentlemen, since you retired Mr. Redmond called my attention to the deposition that had been made by Ormiston, and the result of it was that Ormiston was put on the table again that we might ascertain the exact words that he proved to have been said by the Rev. Mr. Doyle, and there is one word which either he did not say when he was originally examined, or, if he did say it, it did not reach my ear. The words were—"Should the Campaigners lose all hope of getting back, he knew, as Wexfordmen, they would wipe the planters out." You will observe that he put it conditionally instead of positively, and I desire to call attention to that, because of the importance I attached to these words.

DUBLIN: Printed for Her Majesty's Stationery Office,
By ALEX. THOM & Co. (Limited), 87, 88, & 89, Abbey-street,
The Queen's Printing Office.